

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BLUEFIELD DIVISION

HARRY E. DEAKINS, SR., et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 1:10-cv-01396

T. S. PACK, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted his *Proposed Findings and Recommendation* (Document 177) wherein it is recommended that the Court grant *David W. Miller's Motion to Dismiss* (Document 153), grant *Robin Mavin's Renewed Motion to Dismiss, or in the Alternative, Motion to Quash Service* (Document 155), and deny Plaintiff's *Motion for Entry of Default Judgment* (Document 160).

Neither party has filed objections to the Magistrate Judge's findings and recommendation. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this

Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that *David W. Miller's Motion to Dismiss* (Document 153) is **GRANTED**, *Robin Mavin's Renewed Motion to Dismiss, or in the Alternative, Motion to Quash Service* (Document 155) is **GRANTED**, and Plaintiff's *Motion for Entry of Default Judgment* (Document 160) is **DENIED**.

The Court **DIRECTS** the Clerk to send a certified copy of this Memorandum Opinion and Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: September 28, 2012


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA